IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 14647 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

LAXMAN BHAVSING VANZARA

Versus

UNION OF INDIA

Appearance:

1. Special Civil Application No. 14647 of 2004

MR MRUGEN K PUROHIT for Petitioner No. 1-2

MR JJ YAJNIK for Respondent No. 1-2

CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 23/12/2004

ORAL JUDGEMENT

#. Rule. Mr.J.J.Yajnik, learned advocate waives service of rule on behalf of respondent No.1.

#. With the consent of the learned advocates for the respective parties, the matter is taken up for final hearing today.

#. In this petition filed under Article 226 of the Constitution of India, the petitioners - original claimants have prayed for appropriate writ, order and direction directing the respondents to forthwith disburse the money as per the order of the Tribunal dated 8.1.2002 passed in O.A.No.9900103.

#. It appears that the petitioners - original claimants had moved the claim petition case No.OA 9900103 before the Railway Claims Tribunal, Ahmedabad Bench, Ahmedabad claiming compensation of Rs.4 lacs for the death of their son Bhajiyabhai Laxmanbhai Vanjara. The Tribunal by its judgment and order dated 8.1.2002 has allowed the said application and decreed awarding compensation of Rs.4 lacs which is passed in favour of the petitioners along with interest at the rate of 9% p.a. from the date of filing of the application. Further order is also passed with regard to disbursement and investment of the amount of compensation on deposit by the appropriate authority. The Tribunal has passed the order that out of the above sum of Rs.4 lacs, the amount of Rs.50,000/- each with proportionate interest shall be paid to the applicants through crossed cheque and rest of the amount of Rs.3 lacs with proportionate interest be made in Fixed Deposit in the name of the applicants in any of the nationalized bank for a period of five years. It is the case of the petitioners that the Railway Authority had already deposited the said amount, i.e. in all, Rs.5,42,479/before the Tribunal and however when the petitioners approached the Tribunal, the officer of the Tribunal has informed the petitioners that as there is no judicial member available in the Tribunal, the amount cannot be disbursed and invested. Under the circumstances, as there was loss of interest to the applicants petitioners, the petitioners had preferred the present petition under Article 226 of the Constitution of India.

#. It appears that now the judicial member in the Tribunal is already appointed. Under the circumstances and even otherwise in view of the fact that the amount of compensation is already deposited by the railway authority and by not investing and/or disbursing the said amount, ultimately loser will be the applicants, respondent No.2 is directed to disburse and invest the amount which is already deposited by the railway

authority now as per the direction issued by the Tribunal in its order dated 8.1.2002 as early as possible and within a period of three weeks from the date of the receipt of the writ of this order.

#. In view of the above, this petition is allowed. Rule is made absolute to the aforesaid extent with no order as to costs.

(M.R.Shah,J)

(pathan)